IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MARYLAND
Greenbelt Division

IN RE:	*	
	*	Case No: 16-18339 WIL
Annice Walker	*	
	*	Chapter 13
Debtor	*	
	*	

OPPOSITION TO OBJECTION TO EXEMPTIONS

COMES NOW the Debtor, Annice Walker, by and through the undersigned counsel, and pursuant to applicable Federal Rule of Bankruptcy Procedure, hereby files her Opposition to the Chapter 13 Trustee's Objection to Exemptions, and as grounds in support thereof states as follows:

1. The Trustee has objected to the Debtor's claimed exemption of 100% of the fair market value of an anticipated workers' compensation award.

2. The Debtor is unable to assign an actual value to the award, as the matter is being determined by the administrative body adjudicating such awards. Therefore, she disclosed the potential award on Schedule B of her petition and exempted 100% of the value of the award on Schedule C of her petition, pursuant to the limitless exemption provided by Ms. Code Ann., Lab. & Empl. § 9-732.

3. The Trustee has objected to the Debtor's exemption described above on the basis that the Debtor cannot assert an exemption without assigning a specific dollar amount as the value of the property being exempted. To support this argument, the Trustee relies on various cases. However, the cases cited by the Trustee are inapplicable to this matter. For instance, the matter of In re: Stoney, 445 B.R. 543 (Bank. E.D. Va. 2011) stands for the proposition that a debtor must assign an actual cash value to *real property* being exempted under a Virginia statute

that requires a valuation of the real property at issue and is not a limitless exemption. All other cases cited by the Trustee are similar, as they do not deal with limitless exemptions and apply the laws of the states wherein the matters were decided.

4. As stated in the matter of In re Winchell, *slip op.* 2010 WL5338054 (Bank. E.D. Wash. 2010), which is cited by the Trustee in her Objection, pursuant to the matter of Schwab v. Reilly, 560 U.S. 770 (2010), the Supreme Court has set forth a three prong test to determine the propriety of asserting a claimed exemption, inclusive of circumstances where a debtor has exempted 100% of the fair market value of an asset with an undetermined value. Under the Schwab test, to determine the propriety of a claimed exemption, a Court should evaluate (1) the description of the asset in which the debtor claims an exempt interest; (2) the Code provisions governing the claimed exemptions; and (3) the amounts the debtor lists in the column titled "Value of Claimed Exemption."

5. It is clear that the exemption as currently asserted is proper. First and foremost, the actual value of the Debtor's workers' compensation award is indeed undetermined. As bankruptcy schedules are filed under oath, any statement of value of the award is subject to the penalties of perjury. As the current value of the award is unknown, assigning a value out of whole cloth would be improper, and potentially perjurous. Since the description of the asset is as good as one could produce at this stage, and clearly notifies all parties of the nature of the asset, the first prong of the Schwab test has been met. As for the second prong of the Schwab test, it is clear that the Code provision governing the exemption is a limitless exemption and does not required the Debtor to state a specific amount, in contrast to the cases cited by the Trustee. Since the exemption is limitless, the dollar amount is inconsequential to the assertion of a 100% FMV exemption. Whether the award is ten dollars or a million dollars, it is exempt under Maryland

law. Therefore, the failure to assign an actual dollar amount does not prejudice any party. With regard to the third prong of the Schwab test, it is conceded that no actual value is stated in the petition. However, as stated above, the sole reason for this is the fact that the amount is completely unknown. It is preposterous to expect the Debtor to assign a value and assert that value to be true in a sworn document, when there is simply no way for the Debtor to know if what they are swearing to is true or not.

6. As can be seen, the Debtor has properly asserted the subject exemption. The cases cited by the Trustee are extremely fact specific and not applicable to this case. As such, the Trustee's objection must be overruled.

WHEREFORE the Debtor respectfully requests that this Honorable Court enter an Order overruling the Trustee's objection to exemptions, and for any further relief deemed just and proper.

Respectfully submitted,

/s/ Seth W. Diamond

Seth W. Diamond, Bar #28823
The Diamond Law Group, LLC
8613 Cedar Street, Second Floor
Silver Spring, Maryland 20910
(301) 565-5258
(301) 565-0233 (fax)
Email: seth@thediamondlawgroup.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was sent electronically by ECF or was mailed first-class mail, postage pre-paid, this 13th day of September 2016, to the Chapter 13 Trustee and all creditors listed on the Court's Mailing Matrix.

/s/ Seth W. Diamond
Seth W. Diamond